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use, if the operation and use thereof is vested by lease or contract in one or more public utility companies, unless the consideration paid by a public utility company for the use of such fuel and facilities, or of the heat or energy produced thereby, includes an amount based, directly or indirectly, on the revenue or income of the public utility company or any part thereof. Any such company shall file, or join in the filing of, the certificates specified in paragraph (d)(5) of this section. A certificate with respect to a lease or contract executed prior to, or within 30 days after, the effective date of this section shall be filed within 60 days after such effective date.

(7) The provisions of paragraphs (d)(1) and (5) of this section, and the filing requirements of paragraph (d)(6) of this section shall not apply if the facilities therein specified are in possession of and operated by one or more governmental bodies or instrumentalities thereof specified in section 2(c) of the Act.

[Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 7 FR 3423, May 8, 1942; 21 FR 5438, July 20, 1956; 32 FR 13487, Sept. 27, 1967; 38 FR 16998, June 28, 1973; 59 FR 21927, Apr. 28, 1994]

§ 250.8 Exemption of subsidiaries subject to jurisdiction of Interstate Commerce Commission.

Any subsidiary company of a registered holding company, which subsidiary is subject to the jurisdiction of the Interstate Commerce Commission but is not an electric or gas utility company or a holding company, shall be exempt from all the provisions of the act and rules thereunder, with respect to any transaction which is approved by the Interstate Commerce Commission, except that the exemption from section 9(a) (49 Stat. 817; 15 U.S.C. 79i) provided by this rule shall not be applicable to any acquisition of securities of any electric or gas utility company or holding company or to any acquisition by which such subsidiary will become a public utility or holding company.

§ 250.10 Effect of certain exemptions.

(a) *Parent holding companies exempt where subsidiaries have obtained, or applied for, certain exemptions.* Subject to

the provisions of § 250.6, any holding company shall be exempt from any obligation, duty, or liability imposed on it as a holding company solely by reason of such company having as a subsidiary any company which, insofar as it is either a public utility or a holding company, is:

(1) A company declared not to be a public utility or holding company by rule or order under section 2(a)(3), 2(a)(4), or 2(a)(7) of the Act (49 Stat. 804; 15 U.S.C. 79b), or is exempted without qualification by order pursuant to section 3(b) from all obligations, duties, or liabilities imposed on it as a subsidiary company; or

(2) A company exempted as a holding company from sections 4 and 5(a) of the Act (49 Stat. 812; 15 U.S.C. 79d, 79e) by order under subparagraph (3), (4), or (5) of section 3(a) (49 Stat. 810; 15 U.S.C. 79c), or by § 250.3, § 250.4, or § 250.5; or

(3) A company which is only indirectly a subsidiary of such holding company through the interest of such holding company in a subsidiary holding company of the class specified in paragraph (a)(2) of this section; or

(4) A company as to which there is pending an application for an order specified in paragraph (a)(1), (2), or (3) of this section. *Provided*, That such holding company does not have cause to believe that such application was not filed in good faith.

(b) *Subsidiary companies deemed to be included in applications by parent companies under section 2(a)(8).* Every application for exemption filed under section 2(a)(8) (49 Stat. 804; 15 U.S.C. 79b), whether filed before or after the adoption of this section, shall, unless otherwise expressly stated therein, be deemed to be filed on behalf of such applicant and of all subsidiary companies of such applicant, and shall be deemed to include as applicants all such subsidiary companies of such subsidiary company filing such application: *Provided, however*, That the Commission may in any case direct the filing of separate applications by any such companies or may order separate hearings or enter separate or different orders with respect to any such companies so

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deemed to be included pursuant to this section.

[Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 6 FR 5950, Nov. 25, 1941]

§ 250.11 Certain acquisitions by affiliates exempted from section 9(a)(2).

(a) *Acquisitions by certain exempt holding companies.* Any holding company which is exempt from sections 4 and 5(a) of the Act (49 Stat. 812; 15 U.S.C. 79d, 79e) and which is not a subsidiary of any registered holding company, shall be exempt from section 9(a)(2) (49 Stat. 817; 15 U.S.C. 79i) of the Act with respect to the acquisition of any securities issued by any subsidiary of such exempt holding company.

(b) *Acquisitions by certain exempt holding companies and persons not in registered holding company systems.* Any holding company specified in paragraph (a) of this section and any person which is not a holding company or a subsidiary of any registered holding company, shall be exempt from section 9(a)(2) of the Act (49 Stat. 817; 15 U.S.C. 79i) with respect to the acquisition of any of the following securities:

(1) *Securities issued by certain exempt public utility or holding companies.* Securities issued by any public utility or holding company, which is within the classes specified in § 250.10(a) (1) and (2); or

(2) *Securities of foreign companies.* Securities issued by any company which does not own or operate, or have a subsidiary which owns or operates, any utility assets located in the United States: *Provided*, That the acquiring company is not an affiliate under section 2(a)(11)(A) of the Act (49 Stat. 804; 15 U.S.C. 77b) of any company which owns or operates, and has no subsidiary which owns or operates, any utility assets located in the United States.

(c) *Acquisitions by certain registered holding companies.* The exemptions provided by paragraph (b)(2) of this section shall also apply to any registered holding company which has been exempted from section 9(a)(1) of the Act (49 Stat. 817; 15 U.S.C. 79i) as to the acquisition of the securities therein specified.

(d) *Acquisitions by certain persons of securities issued by affiliates.* Any person which is not a holding company or a subsidiary of a registered holding com-

pany shall be exempt from section 9(a)(2) of the Act with respect to the acquisition of any securities issued by a public utility or holding company of which such person is, prior to such acquisition, an affiliate under section 2(a)(11)(A) of the Act.

[Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 18 FR 6589, Oct. 16, 1953]

§ 250.12 Exemption of certain public utility companies from the definition of subsidiary companies of holding companies.

(a) *Exemption.* If voting securities of a public utility company are owned, controlled or held with power to vote by the trustee or trustees of an inter-vivos or testamentary trust created by an instrument executed prior to January 1, 1935, and if such trust was established for charitable, religious, educational or other nonbusiness purposes, or for the benefit of an individual or individuals, or for more than one of such purposes, and if the beneficial interest or interests in such trust are not represented by transferable certificates, and if such public utility company is not itself a holding company, then such public utility company and any subsidiary companies thereof shall not be deemed to be subsidiary companies of such trustees or trust within the meaning of the act or any rule or regulation thereunder, and such public utility company and any subsidiary companies thereof and such trustees and trust shall be exempt from any provisions of the act other than section 9(a)(2) thereof, from any rules and regulations thereunder and from any obligations, duties and liabilities thereunder to which they might otherwise be subject by reason of the ownership, control or holding with power to vote of such securities by such trustees.

[12 FR 5868, Sept. 2, 1947]

§ 250.14 Exemption of acquisitions of securities of power supply companies from section 9(a)(2) of the Act.

(a) An electric utility company which is not an "affiliate" of any other company under clause (B) of section 2(a)(11) shall be exempt from section 9(a)(2) of the Act with respect to the acquisition of any security of a power supply company, either directly or through a